

**MINUTES OF THE ZONING BOARD  
ZONING BOARD MEETING  
MONDAY, MAY 11, 2015, AT 7:00 P.M., ON THE  
4<sup>th</sup> FLOOR, CAFETERIA, GOVERNMENT CENTER  
BLDG, 888 WASHINGTON BLVD., STAMFORD, CT**

Present for the Board: Thomas Mills (Chair), Barry Michelson (Secretary), William Morris, Rosanne McManus, David Stein and Joanna Gwozdzowski. Present for staff: Norman Cole, Land Use Bureau Chief and David Killeen, Associate Planner.

Mr. Mills called the meeting to order at 7:10 pm.

Mr. Morris moved to accept the amended agenda dated May 11, 2015, seconded by Mr. Michelson and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein).

**NEW BUSINESS**

Status Report on Strand v. ZBA Boatyard Court Case and Boatyard Consultant Contract

Attorney John Freeman provided an update. The Applicant's Market Study was submitted last week and a check was provided to begin the City's Consultant study a week ago Friday which is now in escrow. The contract with the City's consultant is being finalized.

Attorney Freeman introduced Bill Buckley to discuss remediation. The Applicant is ready to move clean fill from Block "C-8" to the boatyard property to fill excavated parts of the site. The remediation plan was approved by the CT DEEP. Mr. Mills asked about stockpile material on the 14 acre site. Mr. Buckley said this material was moved off-site. The Applicant needs to install the bulkhead to Ponus Yacht Club and soil can be remediated within 50 feet of the bulkhead. The goal is to stabilize the site while the pending applications are considered. There is one additional section of the site, not bulkheaded, that needs to be remediated. DEEP needs to approve a bulkhead before work can start there. Mr. Stein asked what areas of the 14-acre site are not being remediated? Mr. Buckley indicated it was only the section near the interim Boatyard and the eastern shore that is rip-rapped that still need to be remediated.

Mr. Michelson asked what happened with the material? Mr. Buckley said material was trucked out of town. Mr. Morris asked if this work is being done with the original Certificate of Permission (COP)? Mr. Buckley said no. There were 3 original COP's. The rip-rap on the east shore of the site would require a structural dredge and fill permit to construct a bulkhead even if it is temporary to allow for the remediation. Mr. Buckley explained the Developer needs an approved development plan for the site to determine what will be done on the 800' section of rip-rap; a coffer dam could also be built to protect this area.

Mr. Stein asked, if hot spots are remediated, do they have to do remediation along the rip-rap? Mr. Buckley said that arsenic and cyanide showed up when samplings were taken. Those were the most significant areas to be remediated. There is 12,000 cubic yards of material that needs to be remediated from Block C-8.

Mr. Stein had a question about the study. The \$25,000 check covers the first steps. What are the next steps and are there any issues with funding the remainder of the study? Thomas Madden, City Economic Development Director, thanked BLT for submitting the revised Marketing Study in response to the City's consultant. The Zoning Board consultant will be able to estimate the

remaining tasks when the revised Market Study has been submitted. Mr. Madden expects the first report in 2-3 weeks and estimates the remaining tasks/costs in another 2-3 weeks as well.

### **PUBLIC HEARING**

1. **Application 212-23 Revised – TEN RUGBY STREET, LLC, Text change,** to Amend Article II, Section 3-A by adding a new definition #82.1 for a Recycling Reclamation Facility in the M-G General Industrial District (*continued from April 27, 2015*).

Chairman Mills read the description of this item into the record.

James Lunney, Zoning Enforcement Officer, presented videos and photos of the crushing operation. He discussed zoning enforcement issues with this operation over the years and stated that the operation violates the zoning regulations.

Attorney James Minor, City Law Department Special Counsel, summarized the court case and explained the Superior Court upheld the prohibition of crushing other than use for on-site construction. The Court believed that the Applicant went beyond being a contractor's yard to being a recycling/reclamation facility. The Applicant stated he doesn't crush rock but other materials such as concrete, brick, etc. The Court agreed that the Applicant exceeded zoning rights but they felt that Vitti was not willfully violating regulations and would not levy fines. Attorney Minor studied court cases similar to this one and explained in one case involving a quarry, it took 10 years to stop the operation. The Judge said that the neighbors should try to find a compromise for the Vitti operation. Then, Attorney Minor went to the Blight Committee. They determined the case didn't meet the criteria for being a blight. The Law Department is not taking a position but the current application is a proposed compromise. It may be 3-5 years until a resolution can be found otherwise.

Mr. Mills asked about the blight issue; is the noise not an issue? Attorney Minor said the Blight Committee determined that the committee could not address the zoning issues. If the regulation is approved, there could be a special exception with conditions along with a stipulated judgement to control the operation.

Ms. McManus asked what does blight look like in an industrial zone? Attorney Minor explained that many parts of the operation could occur on-site but not the crushing or reclamation operation and not recycling. Equipment could be stored outside but not materials.

Mr. Morris asked if they'd have to build a building? Attorney Minor said yes if that is required by the regulation or a court order. If a stipulated agreement were assigned to this, there could be graduated fines. Those would be imposed by the court.

Mr. Michelson asked if this was a nuisance use? Attorney Minor said yes, he believes so. Mr. Michelson said this works against the goals of zoning. He was concerned about uniformity requirements of zoning and believes this would give other property owners a reason to seek a similar approval.

Mr. Stein asked whether there weren't health issues? Attorney Minor said, in the past, the Health Department (local and State) found no problems from an environmental standpoint.

Mr. Cole asked about the noise issue. Attorney Minor indicated there are some difficulties with administering the noise ordinance. No staff are trained under the current model.

Rick Redniss and Atty. Tom Cassone represented the Applicant for the proposed Text Change. Mr. Redniss agreed this is a definite problem with many grey areas. The proposed regulation is designed to address these grey areas. He had some questions for Mr. Lunney and Attorney James Minor. Mr. Redniss agreed there are grandfathered uses under Zoning back to 1951 but not for all uses. 90% of material is Vitti's own material. Mr. Redniss wasn't sure if dealing with all these grey areas are as important as improving the situation. Mr. Redniss indicated there is different equipment available to the Applicant than shown in the video. He provided examples of sound insulated Butler Buildings and different crusher equipment that can fit inside a building. He noted that after the last meeting, an email was sent to 400 Shippan Residents with concern about crushers showing up on Magee Avenue. Mr. Redniss discussed revisions to the proposed text to limit this text to the South-End.

Mr. Redniss provided the following exhibits: 1) he gave information about the design of the Butler Building; 2) he provided information about power-screening the horizontal impactor; 3) he discussed the email from Emerald Modular Systems; 4) he discussed the Eagle Crusher and 5) he discussed the tractor and possible enclosures to provide employee safety.

Mr. Mills asked about decibel readings? Mr. Redniss said none were taken yet. Mr. Mills asked about the size of a possible building? Mr. Redniss said there was a limit on the location. He spoke about language from the Master Plan which describes interim use for industrial areas and only mentions the South-End.

Mr. Stein asked if there could be additional language to limit this to current existing sites? The Applicant is not opposed to such a restriction.

Mr. Mills asked what constitutes an emergency? Mr. Redniss gave the example of Marino Bridge, and explained that the term "emergency" needs to be clarified by the City or State.

Mr. Stein asked if they could re-word "g" so that it states "no windows or doors" and remove "operable"? Mr. Redniss said yes. The Board discussed other modifications to the language.

The petition from the last hearing has now been annotated to define residential and non-residential properties.

Mr. Mills asked if there was anyone from the public that wished to speak on the proposed Application.

Terry Adams, Board of Reps for District 3, said there was a lot of information to respond to. He asked, how many emergencies are being handled currently? Regarding the petition, there are a number of business owners that own multiple properties and they signed more than once. If this text change is adopted, other properties could be affected since it could be profitable for them. He stated that the owners of 128 Magee could be crushing because they see Vitti getting away with it. Mr. Adams said if the text change is approved, it will decrease the quality of life for the neighborhood and for the City. There are too many industrial impacts, including trucks on neighborhood streets. He asked the Board not to make crushing legal noting that it must be a very profitable business if they can completely replace multi-million dollar equipment. He asked the Board to show concern for the people that have to live next to this activity.

Kathy Matthews, 43 Harbor Drive, was very concerned about the Magee Avenue property. Mr. Vitti should look at the quality of life. Stamford is no longer a community for this kind of operation. We've outgrown our industrial past with residential development mixed in to the area. The City has gotten more dense. Think about the people that live next to this use. She encouraged the Board to consider the health impact and stated that this operation is a disservice to the South-End. The Board needs to think about the welfare of its residents.

Irene Toigo, 38 Harbor Street, said she lives next to Vitti and the noise is terrible. There is a lot of dust and vibrations that shake her home. It is intolerable.

Mr. Redniss agreed that screening is dirty and dusty and an enclosed building would be better. The proposed text change would address these problems. The alternative is to have crushing occur across the City at multiple construction sites, including the Downtown.

Ms. Gwozdzowski asked how they ensure there are no contaminants in the crushed material? Mr. Vitti said everything needs to be verified by manifest.

There being no further comments Chairman Mills closed the public hearing on this application at 9:55pm and took a brief recess until 10:01pm.

2. **Application 215-10 – SHELTER FOR THE HOMELESS, Special Exception and Coastal Site Plan Review**, requesting approval under Section 7.3 special exception uses for historic buildings for an increase in permitted residential density for a fractional unit (0.30) and a reduction of parking to 1.00 spaces/unit to convert the building from a two-family to a three-family house in an R-MF district at 104 Richmond Hill Avenue (*to be continued to June 1, 2015*).

Chairman Mills read the description of this item into the record.

Mr. Killeen explained to the Zoning Board that the applicant had not notified adjoining property owners of the pending application; therefore, the Board could not proceed with the public hearing this evening. The Applicant has since received instructions from the Zoning Office and is prepared to send the mailings for the next meeting of the Zoning Board on Monday, June 1.

Chairman Mills continued this public hearing to Monday, June 1, 2015 at 7:00 PM in the 4<sup>th</sup> Floor Cafeteria

### **REGULAR MEETING**

#### **APPROVAL OF MINUTES:**

Minutes for Approval: April 6, 2015

Mr. Morris moved to table approval of the minutes to the next meeting, seconded by Ms. McManus and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein).

#### **PENDING APPLICATIONS:**

1. CSPR-964 – DAVID STUCKEY & LINDA MAHONEY, 113 Wallacks Drive, seeking approval to raise an existing single family dwelling and wood deck to meet current flood regulations. Also reconstruct a portion of the existing asphalt driveway, build an extension to a retaining wall, construct access stairs to a raised electric meter, remove an existing oil tank and install a buried propane tank in an RA-1 district within the CAM boundary.

Mr. Killeen provided an overview of this proposal and summarized the staff report on it, concluding that the applicant is basically elevating their single family and wood deck to comply with flood requirements of FEMA. The first floor elevation would be at 20 feet upon completion. Applicant is maintaining the existing footprint of the home.

Attorney William Hennessey, who was present, stated that he is a neighbor of the Applicants and that he strongly supports this application.

Mr. Morris moved to approve the application subject to the conditions of the EPB staff report, seconded by Ms. McManus and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein). The conditions will read as follows:

*1) Work shall comply with the following plans and correspondence:*

- *“Title Sheet, Drawing List, and Vicinity Map,” Stuckey Residence, 113 Wallacks Drive, Stamford, Connecticut, Prepared for David Stuckey and Linda Mahoney, 113 Wallacks Drive Stamford, Connecticut 06902, Sheet G-01, by Roberge Associates, Coastal Engineers, dated July 21, 2014.*
- *“Project Notes,” “Sections and Details,” and “Sections and Details,” Stuckey Residence, 113 Wallacks Drive, Stamford, Connecticut, Prepared for David Stuckey and Linda Mahoney, 113 Wallacks Drive Stamford, Connecticut 06902, Sheets G-02, S-04, and S-05, by Roberge Associates, Coastal Engineers, dated November 7, 2014.*
- *“Foundation Plan,” “Slab on Grade Plan,” “First Floor Framing Plan,” Stuckey Residence, 113 Wallacks Drive, Stamford, Connecticut, Prepared for David Stuckey and Linda Mahoney, 113 Wallacks Drive Stamford, Connecticut 06902, Sheets S-01, S-02, and S-03, , by Roberge Associates, Coastal Engineers, dated March 3, 2014.*
- *“Cover Sheet,” “First Floor Foundation Plan,” “Existing Second Floor Plan,” “Roof Plan,” “Elevations,” and “Elevations,” Prepared for Mr. and Mrs. David Stuckey, 13 Wallacks Drive Stamford, Connecticut 06902, Sheets A0, A1, A2, A3, A4, and A5, by Visual Concepts Studio, revised April 16, 2015.*
- *“First Floor Demolition Plan,” Prepared for Mr. and Mrs. David Stuckey, 113 Wallacks Drive Stamford, Connecticut 06902, Sheet D1, by Visual Concepts Studio, dated January 23, 2015.*

- *“First Floor Foundation Plan” and “Sections,” Prepared for Mr. and Mrs. David Stuckey, 113 Wallacks Drive Stamford, Connecticut 06902, Sheet D2 and A6, by Visual Concepts Studio, revised March 20, 2015.*
  - *“Sediment and Erosion Control Plan,” and “Notes and Details Driveway Plan View,” 113 Wallacks Drive, Stamford, Connecticut Prepared for David Stuckey and Linda Mahoney, Sheets 1 and 3 of 3, by D’Andrea Surveying and Engineering, P.C., revised January 28, 2015.*
  - *“Development Plan,” 113 Wallacks Drive, Stamford, Connecticut Prepared for David Stuckey and Linda Mahoney, Sheet 2 of 3, by D’Andrea Surveying and Engineering, P.C., dated October 22, 2014.*
  - *“Topographic Survey on Property at 113 Wallacks Drive in Stamford, Connecticut Prepared for David Stuckey and Linda Mahoney,” by D’Andrea Surveying and Engineering, P.C., dated October 22, 2014.*
  - *“Zoning Location Survey Depicting 113 Wallacks Drive in Stamford, Connecticut Prepared for David Stuckey and Linda Mahoney,” by D’Andrea Surveying and Engineering, P.C., dated October 22, 2014.*
  - *Correspondence from Derek Daunais, P.E., Rocco V. D’Andrea, Inc., dated November 11, 2014, November 11, 2015, January 30, 2015, April 1, 2015, and April 22, 2015.*
  - *Correspondence from Tim DeBartolomeo, P.E, Roberge Associates, Coastal Engineers, LLC, dated November 10, 2014.*
  - *Correspondence from John Roberge, Roberge Associates, Coastal Engineers, LLC, dated July 31, 2014, November 10, 2014 and January 29, 2015.*
  - *“Planting Plan,” 113 Wallacks Drive, Stamford, Connecticut by Environmental Land Solutions, LLC, dated September 9, 2014.*
  - *Correspondence from Matthew Popp, Environmental Land Solutions, dated October 23, 2014.*
  - *“Draft Flood Preparedness Plan for Residents of 113 Wallacks Drive, Stamford, Connecticut by Rocco V. D’Andrea, Inc., dated July 28, 2014.*
  - *“Drainage Summary Statement,” 113 Wallacks Drive, Stamford, Connecticut, by Derek E. Daunais, P.E., by Rocco V. D’Andrea, Inc., dated July 28, 2014.*
- 2) *Correspondence from Susan M. Kiskin, P.E., Stamford Engineering Bureau, dated November 24, 2015.*
- 3) *Submission of a performance bond, certified check or other acceptable form of surety to secure the timely and proper performance of sediment and erosion/construction controls, tree protection, landscaping, professional supervision,*

*and certifications. A detailed estimate of these costs shall be supplied to EPB Staff for approval prior to the submission of the performance surety. The performance surety shall be submitted to EPB Staff prior to the start of any site activity and issuance of a building permit.*

- 4) Final civil, architectural and flood preparedness plans shall be subject to the review and approval of EPB Staff prior to the issuance of a building permit. Probable revisions include, but are not limited to, the following:*

- Architectural: Uniform exclusion of paint from galvanized columns (A1),  
Ensure that all section references are appropriate (A1).  
Final interior floodproof door and frame details (A4).  
Final breakaway stair, landing, deck detail (A4 or other)*
- Civil: Clarify references to raising utility room and foyer floors (2/3).  
Verify final rear deck elevation (2/3).  
Detail and certification of the floodproof propane tank transmission line (3/3 or other).  
Detail and certification of any floodproof electric/cable burial (3/3 or other).  
Detail and certification of any exterior walls (3/3 or other).*
- Preparedness: Eliminate references to filling of basement, better description of non-emergency actions, addition of final site plan as a figure (FPP).*

- 5) Work areas and the limits of erosion controls shall be staked in the field by a Connecticut surveyor prior to the start of any site activity.*

- 6) Temporary erosion controls and tree protection measures shall be installed and approved in writing by EPB Staff prior to the start of any site activity.*

- 7) Upon the completion of the modified foundation and prior to framing/replacement of the structure, submission of an interim improvement location survey/data accumulation plan by a Connecticut surveyor to confirm the elevation of the top of the piers/lowest horizontal member, subject to the review and approval of EPB Staff.*

- 8) All disturbed earth surfaces shall be stabilized with topsoil, seed, mulch, sod, stone or other EPB approved alternatives prior to the issuance of a certificate of occupancy. This condition applies not only to disturbed earth surfaces slated for landscaping but also to areas under any exterior decks, stairs, drives, etc.*

- 9) All final grading, utilities, final stabilization measures, and other engineered elements shall be completed under the supervision of a Connecticut registered professional engineer and land surveyor with an improvement location survey (surveyor) and written certifications (engineer) submitted to EPB Staff prior to the release of surety and signature authorizing the issuance of a certificate of occupancy.*

10) All floodproofing shall be conducted under the supervision of a professional engineer or architect registered in the State of Connecticut. Upon the completion of the construction, and prior to the release of surety and signature authorizing the issuance of a certificate of occupancy, a Connecticut registered engineer or architect shall certify (signed and sealed correspondence) that the structure and all attendant facilities have been constructed in accordance with the provisions of Section 7.1 of the Zoning Regulations ("Flood Prone Area Regulations"), and are capable of withstanding the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood. The letter of certification shall summarize each floodproofing measure incorporated into the building.

11) Upon the completion of the construction and prior to the release of surety and granting of a signature authorizing the issuance of a certificate of occupancy, a Connecticut registered professional surveyor shall:

- Certify (signed and sealed improvement location survey) the final elevation of: i) Top of piers/bottom of lowest horizontal member, ii) lower slab levels, iii) primary floor level, iv) bottom elevation of all meters, panels, and other similar devices, v) other facilities as deemed appropriate by EPB Staff.
- Complete a standard "National Flood Insurance Program Elevation Certificate."

12) Prior to the release of surety, transfer of title and issuance of a signature authorizing the issuance of a certificate of occupancy, the applicant shall execute and file a standard, City of Stamford "Landscape Maintenance Agreement" on the Stamford Land Records to ensure the success of the planted features.

13) Prior to the release of surety, transfer of title and issuance of a signature authorizing the issuance of a certificate of occupancy, the applicant shall file a standard notice on the Stamford Land Records disclosing the following information.

- The subject property lies within a known flood hazard area described as Zone AE 14 feet NAVD-88" and VE, 15 feet NAVD-88 as shown on Flood Insurance Rate Map 09001C0517G, dated July 8, 2013.
- A coastal site plan review (133 Wallacks Drive, Stuckey/Mahoney, CSPP 964, 4/15) was issued by the Zoning Board of the City of Stamford to elevate and renovate an existing single family dwelling and make associated site improvements on property known to support or lie proximate to the coastal resources identified as "Coastal Flood Hazard Zone" "Tidal Wetland," "Beaches and Dunes" and "Rocky Shorefront," "Intertidal Flats" and "Embayment."
- Acknowledge the existence of the revised "Flood Preparedness Plan."
- Restrictions prohibiting uses and/or modifications to the fully enclosed areas below the limits of the minimum elevation standard of 16 feet NAVD-88 as to



*render them inconsistent with Stamford's Flood Regulations. Specific enforcement provisions for non-compliance shall be included.*

*14) In-ground fuel oil storage tanks are prohibited.*

*15) Existing exterior fuel oil storage tank shall be removed per the applicable codes and regulations, with proof of a full and proper remediation submitted to EPB Staff prior to the release of surety and receipt of signatures authorizing the issuance of a certificate of occupancy.*

2. CSPR-981 – 18 EUCLID AVE, LLC, 24 Avery Street, construction of a new duplex consisting of two townhouses of 2,733 s.f., 2-1/2 stories each with site improvements on 0.14 acres in an R-5 zone within the CAM boundary.

Mr. Killeen provided an overview of this proposal and summarized the staff report on it, concluding that the applicant is located outside of the Coastal Flood Hazard Area. The staff report anticipates no adverse impacts on coastal resources.

Ms. McManus moved to approve the application subject to the conditions of the EPB staff report, seconded by Mr. Stein and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein). The conditions will read as follows:

*1. Work shall conform to the following plans:*

- *“Site Plan,” and “Detail Sheet,” Prepared for 18 Euclid Avenue, LLC, #24 Avery Street, Stamford, Connecticut, prepared by J. Edwards & Associates, LLC, dated January 22, 2015, last revised May 1, 2015.*
- *“Landscape Plan,” 18 Euclid Ave, LLC, 24 Avery Street, Stamford, CT, Sheet LP-1.0, by Robert Sherwood, Landscape Architect, LLC, dated February 20, 2015, revised April 30, 2015.*
- *“Title Sheet and General Notes,” “Zoning & Bld’g Code Info. & General Notes,” “Proposed Foundation Plan,” “Proposed First Floor Plan,” “Proposed Second Floor Plan,” “Proposed Attic Floor Plan,” “Proposed Roof Plan,” “Proposed North Elevation,” “Proposed West and East Elevations,” “Proposed South Elevation,” “Proposed Building Sections,” “Proposed Building Section and Window & Exterior Door Schedules,” “Typical Wall Section,” “First Floor Framing Plan,” “Second Floor Framing Plan,” “Attic Framing Plan,” and “Proposed Roof Framing Plan,” 24 Avery Street, Stamford, CT, Prepared for 18 Euclid Avenue, LLC, prepared by Aedifiex Architecture Construction Management, dated February 16, 2015.*
- *“Foundation Plan 1<sup>st</sup> Floor Framing Plan,” “Foundation Details,” “Typical Foundation Details,” and “General Structural Notes,” Duplex Project, 24 Avery Street, Stamford, Connecticut, prepared by Atlantic Consulting & Engineering LLC, dated February 21, 2015.*

2. *Submission of a performance bond, certified check, or other acceptable form of surety to secure the timely and proper performance sediment and erosion and construction controls, drainage, landscaping, professional supervision and certifications, plus a 15% contingency. A detailed estimate of these costs must be supplied to EPB Staff for approval prior to the submission of the performance surety. The performance surety shall be submitted to EPB Staff prior to the start of any site activity and issuance of a building permit.*
3. *Work areas shall be staked in the field by a Connecticut surveyor prior to the start of any site activity.*
4. *Temporary sediment and erosion/construction controls shall be installed per the approved plans and approved in writing by EPB Staff prior to the start of any site activity.*
5. *All disturbed earth surfaces shall be stabilized with topsoil, seed and mulch, sod, stone, pavement or other EPB approved alternatives immediately upon the completion of construction and prior to the receipt of EPB authorization for a final certificate of occupancy. This condition applies not only to lawn and landscape areas, but also to all areas under decks, elevated additions, stairs, drives, etc.*
6. *All final grading, drainage, stabilization, and other engineered elements shall be completed under the supervision of a Connecticut registered professional engineer/surveyor with an improvement location survey (surveyor) and written certifications (engineer) submitted to EPB Staff prior to the receipt of a signature authorizing the issuance of a certificate of occupancy and release of surety.*
7. *All approved landscaping and mitigative measures shall be conducted under the supervision of a qualified landscaping professional with written certifications submitted to EPB Staff prior to the receipt of a signature authorizing the issuance of a certificate of occupancy and release of surety.*
8. *In-ground heating oil storage is prohibited.*
9. *Submission of a standard, City of Stamford landscape maintenance agreement to ensure the success of landscape features prior to the receipt of a final certificate of occupancy and return of surety.*
10. *Submission of a standard, City of Stamford drainage maintenance agreement to ensure the full and proper function of all drainage facilities installed on the parcel prior to the receipt of a final certificate of occupancy and return of surety.*

3. Application 215-09 – WILLIAM J. HENNESSEY, JR, Text change

Mr. Cole discussed the proposed text change and the comments/issues raised during the public hearing of May 4, 2015. He suggested a grandfather clause regarding the 12 foot step-back for applications filed after July 1, 2015.

The Board discussed the 3<sup>rd</sup> and 4<sup>th</sup> stories. Mr. Mills asked if the step-back was enough? Mr. Cole said the language has been strengthened and relies on good design review.

The Board then discussed the concept of a 4<sup>th</sup> story as a special exception. Ms. McManus was against a special exception. The majority of the Board felt it should be a consistent standard, not by special exception. There was a concern that it would cause inconsistency if this was a special exception. Additional discussion of step-back above the third floor.

Mr. Stein moved to approve the application subject to the conditions discussed, seconded by Ms. McManus and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein). The text will read as follows:

*To Amend Section 4-AA-11.3-c as follows:*

*c. Minimum Yards: Front - 0 feet, but not less than twelve (12) feet from the established curb line; Rear – 20 feet; Side – None required, but if provided must be at least four (4) feet.*

*To Amend Section 4-AA-11.3-d as follows:*

*d. Maximum Building Height: 4 stories and 45 feet, subject to an additional twelve (12) foot step-back of the building façade, facing the street, above the third story or at a height of 35 feet, whichever is less. For all applications filed after July 1, 2015, the twelve (12) foot step-back is measured from the plane of the building façade below. (see figure 11.1)*

*To Amend Section 4-AA-11.3-k subsections seven (7) and eight (8) as follows:*

*k. Parking, Loading and Vehicle Access: The amount, location and dimensions of parking and loading and dimensions of driveways shall comply with the standards of Section 12 of these Regulations, as modified by the following special standards applicable to development within the VC District.*

*(7) The standards of Sections 12-B and 12-C of these Regulations shall not apply.*

*(8) Where fifty (50) or more parking spaces are provided, the Zoning Board, by issuance of a special exception, may permit tandem parking, provided tandem spaces shall not exceed twenty percent (20%) of the required parking.*

*To Amend Section 4-AA-11.5-b as follows:*

*b. Buildings are encouraged to be constructed close to the front property line or street line to maintain a continuous building wall along the sidewalk, with minimum interruptions only for permitted driveways (see Figure 11.2), provided that buildings shall be located not less than twelve (12) feet from the established curb line to provide an adequate sidewalk width. Buildings may be set back further from the front property line to accommodate outside dining on retail streets or to provide small landscaped front yards to buffer ground floor residential uses or where necessary to align the building with existing buildings on adjoining properties, to accommodate an irregular property line condition, to accommodate an existing unique landscaping feature, or to create publicly accessible open space. (see Figure 11.3)*

*To Amend Section 4-AA-11.5-k as follows:*

*k. Buildings shall be designed to reduce their perceived height and bulk by incorporating architectural strategies such as, but not limited to, dividing the building mass into smaller-scale components and providing articulation of all facades. On larger buildings, the rooflines of buildings can follow the variation in bay massing so as to appear as a series of side-by-side buildings or bays. Rooflines shall be emphasized, for example with gabled or other pitched roof forms, parapets, balustrades, and/or cornices. Where side elevations of buildings are prominently exposed to pedestrian view from public streets, architectural strategies shall be employed to provide articulation of the façade and to diminish perceived height including continuation of the fourth floor step-back, provided that a step-back on a side elevation need not meet the twelve (12) foot standard. (see Fig. 11.2)*

#### 4. Application 215-12 – 72 CUMMINGS POINT ROAD, LLC, Text change

After a brief discussion about front yard setbacks, Ms. McManus suggested a change from 10' to 12'; Mr. Killeen recommended that FAR be changed from 0.1 to 0.02 and a height limit of 20' be established. Mr. Morris moved to approve the application subject to the conditions discussed, seconded by Ms. McManus and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein). The text will read as follows:

*To Amend Article III, Section 9-C-3 of the IP-D Designed Industrial Park District as follows:*

*The following uses are permitted in an IP-D DESIGNED INDUSTRIAL PARK DISTRICT: (See also Subsection M of this Section).*

*To Amend Article III, Section 9-C-7 of the IP-D Designed Industrial Park District as follows:*

*Floor area ratio, as defined in Section 3A 39.2, shall not exceed a maximum of 0.25, except that portion of basements used for supplemental and accessory uses as described in Section 9-C-3.d shall be excluded from the floor area calculations, and building coverage shall not exceed a maximum of twenty-five percent (25%).... No building shall be located at a distance less than fifty feet (50') from any street on which the lot fronts, nor less than one hundred feet (100') from a property line outside of the Designed District area or from the boundary line of a Residential District. Provided; however, by Special Exception approval of the Zoning Board, the setback requirement from any street may be reduced to twelve feet (12') for any single story building, not exceeding twenty feet (20') in height, with a maximum Floor Area Ratio of 0.02.*

#### 5. Application 215-13 – 72 CUMMINGS POINT ROAD, LLC, Special Exception, Site &

The Board reviewed the draft conditions prepared by the Applicant and reviewed by Staff. Mr. Stein questioned the phrase under proposed condition #4 where applicant would make “best efforts”. It was suggested this language be removed.

After a brief discussion, Mr. Michelson moved to approve the application subject to the conditions discussed, seconded by Ms. McManus and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein). The conditions will read as follows:

*SITE-SPECIFIC CONDITIONS:*

- 1) All work shall substantially conform to the above referenced Building and Site Plans [LIST TO BE PROVIDED IN CERTIFICATE] unless otherwise approved by the Zoning Board or, for minor modifications, by Zoning Board staff.*
- 2) Prior to issuance of a Building Permit, the Applicant shall submit a complete, detailed site landscaping plan to address the visual/aesthetic impact requirements of the coastal regulations and to mitigate for the anticipated loss of tree resources. Any submitted plan shall be developed by a qualified landscaping professional and include the location, type, size, number and root type of the coastal tolerant landscape features, subject to review by Zoning Board staff.*
- 3) The Applicant shall implement the landscaping design detailed on a sketch prepared by Eric Rains Landscape Architecture, LLC titled "Transformer Screening, SKL-2.0" dated May, 4, 2015, subject to review and approval by the utility company.*
- 4) In connection with the installation of the additional parking on the east side of 72 Cummings Point Road, the Applicant shall implement the landscaping design detailed on a sketch prepared by Eric Rains Landscape Architecture, LLC titled "Additional Parking Screening, SKL-3.0" dated May, 4, 2015. Said landscaping shall be implemented by the close of the spring planting season following completion of the parking improvements.*

*STANDARD CONDITIONS:*

- 5) Prior to the issuance of a Building Permit, sewer and storm drainage plans shall be submitted and subject to final review of design specification and construction by the Engineering Bureau. Applicants shall address comments of Susan Kiskin, P.E. in her memorandum dated April 27, 2015 as described in a response memorandum prepared by Ted Milone, P.E. dated April 29, 2015.*
- 6) Prior to the issuance of a Building Permit, the Applicant shall submit final site and architectural plans and landscaping plans, including specifications for exterior architectural designs, materials, samples and colors, for final approval by Zoning Board staff, to ensure consistency with the approved plans, architectural elevations, and illustrative renderings constituting the record of the application.*
- 7) No significant mechanical equipment, in addition to that depicted on the building and site plans, shall be installed within view of any public street without prior approval of the Zoning Board staff.*
- 8) Prior to the issuance of a Building Permit, the Applicant shall submit a Construction Staging and Management Plan to ensure safe, adequate and convenient vehicular traffic circulation and operations, pedestrian circulation and protection of environmental quality through the mitigation of noise, dust, fumes and debris subject to final approval of the Land Use Bureau Chief or his designee. Such Construction Management Plan shall*

*address, but not be limited to, reasonable restrictions on times when deliveries can be made to the job site, measures to control dust, staging areas for materials and construction worker parking as well as temporary measures requiring the timely removal of construction debris and/or litter from the jobsite.*

- 9) Prior to the issuance of a Building Permit, sedimentation and erosion control plans shall be submitted and subject to approval by the Environmental Protection Board staff.*
- 10) Prior to issuance of a Certificate of Occupancy, the Applicants shall submit a modified Drainage Maintenance Agreement and modified Landscape Maintenance Agreement, subject to approval by the Environmental Protection Board staff.*
- 11) Prior to issuance of a Certificate of Occupancy, the Applicants shall submit a Trash Management Plan, subject to the review of the Zoning Board staff.*
- 12) Prior to the start of any construction activities or the issuance of a Building Permit, whichever comes first, Applicant shall submit a Performance Bond, or other acceptable surety, to ensure completion of site improvements, in an amount equal to the estimated cost of sedimentation and erosion controls and landscaping, subject to the approval of Director of Legal Affairs as to form and subject to approval of amount by the Zoning Board staff.*
- 13) The Applicants shall have one year from the effective date of this approval within which to secure a Building Permit, subject to Zoning Board approval of three extensions, each not more than one year, upon timely application and good cause shown.*

#### **OLD BUSINESS**

Ms. McManus moved to waive the rules to add another agenda item regarding Parcel 38, seconded by Mr. Stein and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein).

Mr. Cole reported that Eversource required the addition of access doors that would have broken up the appearance of the windows on the approved design. The Applicant is proposing a green screen on both sides. The Applicant is proposing potted plants in front of the green screen along Tresser and Greyrock. The Applicant is also asking that the notches for the hallway connectors be covered with a different material. The architect suggested wood. After further consideration, they would like to change it to a black metal.

Ms. McManus moved to approve the changes requested to building materials on Parcel 38 which include the use of green screen in front of the utility rooms on the first floor and the use of black metal to clad the “notches” between the buildings, seconded by Mr. Morris and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein).

#### **ADJOURNMENT**

There being no further business, motion was made to adjourn the meeting at 11:15pm by Mr. Stein, seconded by Mr. Morris and the motion was approved 5:0 (Mills, Michelson, Morris, McManus and Stein).

Respectfully submitted,

Barry Michelson, Secretary  
Stamford Zoning Board